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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,591	08/13/2001	Rei-Young Amos Wu	40002-10459	7907
7590	02/23/2004		EXAMINER	
Ryndak & Suri 30 N. LaSalle Street Suite 2630 Chicago, IL 60602			TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/928,591 Examiner Lien T Tran	Applicant(s) WU, REI-YOUNG AMOS	
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 November 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 39-75 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,39-66,69-71 and 74 is/are allowed.
- 6) Claim(s) 67-68, 72-73 and 75 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
6) <input type="checkbox"/> Other: _____. |
|---|--|

The 112 first paragraph rejection of claims 67,68, 72-73 and 75 for not being enabling is maintained for the same reason set forth in paragraph 1 of the previous office action.

In the response filed Nov. 10, 2003, applicant argues the specification fully enables one skilled in the art to identify what the powder is and what form the powder may take. The examiner respectfully disagrees with applicant. While the specification disclose the second coating material can be a powder and the powder liquefies upon heating, it does not have any example of what this powder is. Applicant points to page 17 line 26 through page 18 line 6; however, the disclosure on these pages refer to the making of coating composition that is a slurry; even though this coating composition comprises cocoa powder, there is no disclosure that this cocoa powder liquefies upon heating. The rejection is based on the fact that the specification does not disclose any powder which would liquefy upon heating and then dry as a solid film. While applicant argues one skilled in the art would know of powder coatings which could liquefy, applicant does not have any evidence to show that such powder is readily apparent to one skilled in the art. Applicant does not cite any example or submit a showing to demonstrate that powder which liquefies upon coating is well known in the art. Applicant makes reference to Patent no. 4038423; however, that patent discloses a coating mixture comprising sugar, non-fat dry milk and a fat , not just a powder as recited in claims 72 and 75. Also, the reference discloses the mixture is heated to melt the fat; there is no disclosure of liquefying the powder. What is well-known is best omitted is true, but there is no evidence that the powder having the claimed function is

well known. For instance, applicant does not recite any example of such powder in the response even though applicant contends that it is well known. Applicant only recites examples of a mixture containing a powder with no disclosure of the powder being liquefied. Applicant also has not shown any example of a coating composition comprising a powder in which the powder liquefies upon heating.

Applicant's arguments filed Nov. 10, 2003 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Wednesday and Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 11, 2004

Lien Tran
LIEN TRAN
PRIMARY EXAMINER
Choup 17ov